IN THE HIGH COURT OF BOMBAY AT GOA.

CIVIL APPLICATION (REVIEW) NO. 19 OF 2000.
IN
WRIT PETITION NO. 263 OF 2000.

1. State of Goa through
its Chief Secretary,
Secretariat, Panaji.
2. Public Works Department
through its Chief
Engineer, Altinho,
Panaji. ... Applicants.

Versus

Shri Pradeep Sahakari,
Work Assistant, Sub-Div.
II, W.D. XII, P.W.D.,
Quepem. ... Respondent.

Mr. G. Shirodkar, Additional Government Advocate for the Applicants/Original Respondents.

Mr. V.A. Lawande and Miss Helen Fernandes, Advocates for the Respondent/Original Petitioner.

Coram : F.I. REBELLO AND
P.V. HARDAS, JJ.

Date : 23rd June 2003.

ORAL JUDGMENT (PER REBELLO, J.)

Applicant State has preferred this review against the Judgment and Order, dated 20th September 2000, of this Court. We find from the records that the original petitioner herein had even approached the Apex Court. However, that petition came to be dismissed by the Apex Court on 30th November 2000.

2. By the Judgment sought to be reviewed the Division Bench of this Court noted that the original petitioner herein would be entitled to the benefit of

the Notification of 14th May 1997, but that Notification could not be given retrospective effect and, therefore, directed that the original petitioner herein, who had been regularised pursuant to Office Memorandum of 7th June 2000 and the Order of 7th July 2000, should be given the benefit of the basic pay that he was drawing in terms of the Notification of 1st May 1997. It may be mentioned that this has not been clearly set out though from a reading of the Judgment, we are of the opinion that this is really what this Court meant.

3. The present review is based on the contention of the original petitioner herein that he is entitled to protection of the wages drawn, even before 1st May 1997. Firstly, this was not the finding of this Court and secondly, in respect of the very Judgment of this Court the original petitioner herein had gone to the Apex Court and the Special Leave Petition had been rejected.

4. The original petitioner was initially working as a daily wage worker. The applicant State issued a Notification on 14th May 1997 granting temporary status to those who would be covered by the Notification. The original petitioner was one of them. In terms of paragraph 3 of the Notification, the beneficiaries would be put in the pay scale as set out under paragraph 3(i). Insofar as the original petitioner is concerned the pay

scale was in the time scale of Rs. 3050-75-3950-80-4590. Under sub-paragraph (vi) of paragraph 3 on completion of one year the employee would be entitled to an annual increment. The original petitioner was drawing the annual increment up to the year 2000. On 7th June 2000, the Government issued another Office Memorandum that an employee, who completes 5 years of continuous service as an NMR/Daily Wager, would automatically qualify for being considered for regularisation subject to the conditions laid down therein. By another Order of 7th July 2000, persons whose names have been set out therein were regularised on the initial pay of Rs. 3,050/- per month.

5. The original petitioner aggrieved by that Order of fixing his pay at Rs. 3,050/- without considering the annual increment obtained by him after the date of the Order, had filed the petition in which the impugned Order came to be passed.

From what is stated above it is clear that the original petitioner apart from getting protection of the basic pay of Rs. 3,050/- would also be entitled to the protection of the annual increment that had been drawn and, therefore, while fixing his pay at Rs. 3,050/-, the annual increment drawn by the petitioner in the Writ Petition has also to be protected. This is what this

Court meant in passing the Judgment and Order of 20th September 2000.

6. We, therefore, merely clarify that the petitioner in Writ Petition No. 263 of 2000 will be placed in the pay scale of Rs. 3,050/- as and from 7th July 2000 and will be entitled to be fitted in an appropriate time scale by protecting the increments obtained in the post, between 1st May 1997 till regularisation.

7. With the above observations and clarification, the review stands disposed of, with no order as to costs.

(F.I. REBELLO)
JUDGE.

(P.V. HARDAS)
JUDGE.

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